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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

STRATEGIC POLICY DEVELOPMENT COMMITTEE

JOE SERNA JR., CAL/EPA HEADQUARTERS BUILDING

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APPEARANCES

COMMITTEE MEMBERS

Ms. Margo Reid Brown, Chairperson

Ms. Sheila Kuehl

Mr. John Laird

Ms. Carole Migden

Ms. Rosalie Mul

STAFF

Mr. Mark Leary, Executive Director

Mr. Elliot Block, Chief Counsel

Ms. Rubia Packard, Chief Deputy Director

Ms. Tracey Cottingim, Administrative Assistant

Mr. Mitch Delmage, Manager, Local Assistance and Market
Development Division, Bay Area Branch

Ms. Kristen Garner, Executive Assistant

Ms. Elizabeth Huber, Legislative Director

Mr. Howard Levenson, Director, Sustainability Program

Ms. Cara Morgan, Chief, Local Assistance and Market
Development Division

Mr. Ted Rauh, Director, Waste Compliance and Mitigation
Program

Ms. Emily Wang

ALSO PRESENT

Mr. Glenn Acosta, Los Angeles County Sanitation Districts

Mr. John Cupps, San Luis Obispo Integrated Waste
Management Authority

Mr. Nick Lapis, Californians Against Waste

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1 PROCEEDINGS

2 CHAIRPERSON BROWN: Good morning, everybody.

3 Thank you for joining us for the Tuesday -- Happy St.

4 Patrick's Day. For the record, I'm teal. This is as

5 green as I can be right now.

6 Happy St. Patrick's day. I think we are all

7 green - green blood.

8 This is the Strategic Policy Development

9 Committee of the California Integrated Waste Management

10 Board.

11 I'm going to ask Kristen to call the roll.

12 EXECUTIVE ASSISTANT GARNER: Kuehl?

13 COMMITTEE MEMBER KUEHL: Here.

14 EXECUTIVE ASSISTANT GARNER: Laird?

15 COMMITTEE MEMBER LAIRD: Here.

16 EXECUTIVE ASSISTANT GARNER: Migden?

17 COMMITTEE MEMBER MIGDEN: Here.

18 EXECUTIVE ASSISTANT GARNER: Mulé?

19 COMMITTEE MEMBER MULÉ: Here.

20 EXECUTIVE ASSISTANT GARNER: Brown?

21 CHAIRPERSON BROWN: Here.

22 Any members have any ex partes to report?

23 I think we're all up-to-date.

24 I'd like to remind people that there are agendas

25 in the back of the room. If you wish to speak to any

1 item, please bring a speaker slip up to Kristen. I remind
2 you to turn your cell phones or pagers into the vibrate
3 mode.

4 And, let's see, I think we'll move to our agenda
5 with that.

6 Howard, no Director's report.

7 So we'll start with the first item, No. 4.

8 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Thank
9 you, Madam Chair. Howard Levenson with the sustainability
10 program.

11 This item is an update on the status of the Paint
12 Product Stewardship Initiative that's had a national
13 dialogue about paint collection issues for a number of
14 years.

15 The Paint Product Stewardship Initiative has been
16 operated in conjunction with a number of states, including
17 California, via the auspices of the Waste Board, and a
18 number of the industry's stakeholders.

19 We've been involved in this issue for a number of
20 years. And most recently, in terms of Board actions, the
21 Board has signed a second Memorandum of Understanding in
22 December of 2007 to continue our participation in the
23 national dialogue.

24 At the same time, the Board did express a couple
25 of concerns about the status of the dialogue at that time,

1 namely, whether its goals would be met in a timely manner,
2 and also how the dialogue's goals relate to the Board's
3 own Extended Producer Responsibility framework.

4 When you approved that second Memorandum of
5 Understanding about a year -- a little over a year ago,
6 you asked us to return in roughly a year with an update on
7 the status. And so that's the purpose of today's item.
8 But it's also timely because we have already seen one
9 piece of legislation introduced this session, AB 1343,
10 regarding paint collection issues.

11 So I'd like to turn it over to Emily Wang. She's
12 going to give you a little bit of background on the paint
13 issues and the status of the dialogue. And then simply
14 open for your discussion.

15 Thank you.

16 (Thereupon an overhead presentation was
17 Presented as follows.)

18 MS. WANG: Hi. My name's Emily Wang. I'm with
19 the Sustainability Program. And I'm here to talk to you
20 about paint.

21 --o0o--

22 MS. WANG: Leftover paint is one of the most
23 common household hazardous wastes that we deal with. Data
24 that we receive from local jurisdictions show that two and
25 a half million gallons of paint were collected by local

1 jurisdictions in the fiscal year 2007-8. At a cost of
2 about six to eight dollars per gallon, it quickly adds up
3 to 15 to \$19 million statewide.

4 And as you can see from the pie chart, paint
5 represents a sizable portion by weight of the amount of
6 household hazardous waste that these local jurisdictions
7 are impinged with. As a result, the Board's been very
8 active in searching for a system for leftover paint
9 management. As of now, most of these costs are being
10 borne by local governments.

11 This has led to the Board involvement in the
12 Paint Product Stewardship Initiative.

13 --oOo--

14 MS. WANG: This is a national dialogue with
15 representatives from industry, government, and other
16 parties interested in waste management issues.

17 I should also mention that the Product
18 Stewardship Institute has been acting as the facilitator
19 for these discussions since 2003.

20 The Initiative has worked on a wide array of
21 paint management studies. I've listed here two studies
22 that CIWMB has contributed directly to, both financially
23 and in terms of staff time.

24 The Paint Infrastructure Needs Study evaluated
25 different -- the best ways to collect and process leftover

1 paint in the United States; while the Recycled Paint
2 Certification Project was an effort to create the "Green
3 Seal" standard, which incorporates both environmental and
4 performance standards into recycled paint, which has been
5 a concern, because earlier complaints about recycled paint
6 were that the quality was not very good. So it's really
7 important that we incorporate it into the Green Seal
8 standards. These performance standards show that, yes,
9 this is good quality paint and it is a good quality
10 product.

11 Other states and manufacturers have also been
12 working on a variety of different products through this
13 initiative, including studies on source reduction, of a
14 reuse manual, and the life-cycle analysis.

15 In January of 2005, the Waste Board signed the
16 first Memorandum of Understanding with the Paint Product
17 Stewardship Initiative. And that was a two-year -- it was
18 a two-year Memorandum of Understanding.

19 And now we are in the midst of the second
20 Memorandum of Understanding, which was signed in December
21 of 2007.

22 --o0o--

23 MS. WANG: The Board signed this as an interested
24 party. And under this memorandum, the Initiative plans to
25 create a paint collection program that features a

1 consumer-based cost recovery system, managed by a
2 third-party stewardship organization, and a partnership in
3 which industry shares in the responsibility.

4 Minnesota Demonstration Program was set to begin
5 in 2008, followed by rollouts in Oregon, Washington, and
6 Vermont in 2009, in California in 2010.

7 As Howard mentioned earlier, once the Board
8 signed this memorandum, the Board also issued a signing
9 statement noting and reaffirming its commitment to the
10 Extended Producer Responsibility framework, and stating
11 that the Board can continue to -- would continue to pursue
12 actions toward the implementation of its EPR framework.

13 The Board also expressed some concerns about the
14 memorandum's lack of specific measurement goals and also
15 its ability to keep with the timeline.

16 --o0o--

17 MS. WANG: In 2008, the National Paint and
18 Coatings Association, which represents some 350
19 manufacturers, distributors, and suppliers in the paint
20 industry, led an effort to pass legislation in order to
21 implement the pilot program in Minnesota.

22 The main reasons for using this legislative
23 approach were to allay any antitrust concerns that may
24 arise from the manufacturers instituting a fee on paint,
25 and also to ensure a level playing field where all

1 manufacturers were involved in the process.

2 Unfortunately, the bill was vetoed in May of 2008, which
3 has pushed back the timeline of the memorandum by one
4 year. This means that California is now set for a 2011
5 rollout date instead of 2010, as was originally stated.

6 --o0o--

7 MS. WANG: While we were all disappointed by this
8 veto, the group remains undaunted. And there is now a new
9 bill in Minnesota for this current legislative session
10 that was introduced February 5th. This is similar to the
11 bill from the previous year and would set a pilot program
12 to start in September of this year.

13 And the stakeholders of Minnesota have been very
14 active in meeting with the Governor and others to discuss
15 this bill.

16 --o0o--

17 MS. WANG: At the same time, in an effort to
18 minimize any further delays, the National Paint and
19 Coatings Association, NPCA, are pursuing legislation in
20 Oregon of this year -- in this year. This is so that the
21 program could be instituted more quickly. And should
22 anything go wrong in Minnesota, they have another state
23 ready and willing to go.

24 The initiative also continues to have very active
25 discussions with other rollout states, so that the

1 groundwork can be laid to move as quickly as possible.

2 They're also developing an evaluation system in
3 conjunction with the U.S. Environmental Protection Agency.
4 They want to develop a system that can be integrated into
5 the program so that it could be used -- so that you could
6 get feedback and evaluation throughout the program's run
7 and not just at the very end.

8 --o0o--

9 MS. WANG: In California, as Howard mentioned --
10 let me just scroll down to the bottom.

11 Okay. As Howard mentioned earlier, some paint
12 legislation has been introduced in California this year.
13 It would require manufacturers to implement a paint
14 recovery program in January of 2010, which you may recall
15 was the original date set in the second memorandum. And
16 it would also include annual reporting to CIWMB. The
17 program is -- the bill is set up like a pilot program and
18 would expire in 2014.

19 And this concludes the update. Thank you very
20 much for your time.

21 CHAIRPERSON BROWN: Thank you.

22 Did you have a question?

23 I have one quick question. The legislation in
24 California, 1343, does that mirror the Minnesota
25 legislation or --

1 MS. WANG: It's similar, but it doesn't mirror
2 it.

3 CHAIRPERSON BROWN: Can you discuss the
4 differences? Because we're familiar with the pilot
5 program and the way it was set up to run in Minnesota. It
6 got politically sideways last year. So...

7 MS. WANG: The Minnesota program specifically
8 states that the paint recovery system would be financed by
9 a consumer fee. And it doesn't say whether it's invisible
10 or visible. But it does state that it has to be a fee
11 that will eventually be passed on through the consumer.
12 But the California bill does not specifically say that it
13 has to be through a consumer fee. That's one big
14 difference.

15 CHAIRPERSON BROWN: Does the California -- does
16 1343 have a financing mechanism in there or is it just
17 silent on that?

18 MS. WANG: It suggests the possibility of a
19 system similar to Minnesota's, but it doesn't dictate it.
20 So it's still a pretty open -- more silent.

21 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Madam
22 Chair, I can speak to that.

23 I have the bill in front of me and it does have a
24 provision in here that a cost recovery system may be
25 established by the manufacturer individually or through a

1 representative organization to collect a fee from the
2 consumer. So it does --

3 CHAIRPERSON BROWN: So it's more of an EPR-type
4 model, where the manufacturer has the opportunity to set
5 the fee.

6 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: That's
7 correct. And we've looked at it. It's a very sketchy
8 bill at this point, so I know there's going to be
9 additional work on it. We are tracking it and looking at
10 it in terms of its consistency with the Board's Extended
11 Producer Responsibility framework. And it has some
12 components of it. It doesn't have other components such
13 as goal setting or enforcement provisions. Those are
14 things that we're working with our Legislative Office on
15 to convey to the appropriate --

16 CHAIRPERSON BROWN: Well, as Sheila mentioned, it
17 probably hasn't even been assigned to a committee yet
18 necessarily.

19 Who's the author?

20 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:
21 Assemblyman Huffman.

22 CHAIRPERSON BROWN: Thank you.
23 Carole.

24 COMMITTEE MEMBER MIGDEN: Yeah. Well, are we in
25 support of this bill? Have we taken -- we are monitoring.

1 Are we supporting the bill?

2 CHAIRPERSON BROWN: We don't take a position at
3 this point, especially this early and when there's not
4 language. But Elizabeth can come up and review the
5 process.

6 COMMITTEE MEMBER MIGDEN: Here's what -- I guess
7 what I want to say is this: I think the bill, as I
8 understand it, has to do with manufacturer's
9 responsibility. And there's been told about sort of
10 end-user responsibilities, whether customers and
11 industries and regulators and who else gets involved. And
12 sometimes it is very worthwhile -- and I'm not sure, Madam
13 Chair, how we'd procedurally work formally or informally.
14 But I would like to have a contact - and sometimes you do
15 it individually - with Mr. Huffman's office. It's a
16 notable pursuit. We're hearing that national efforts or
17 other funded grants haven't really gotten a handle on it.
18 It would be worthwhile, in an early stage, to see if we
19 can offer some assistance and ideas, if the gentleman is
20 amenable. And then it becomes more of a product we feel
21 is well rounded or expresses some, but not all -- again,
22 I'm not --

23 CHAIRPERSON BROWN: Well, generally through the
24 legislative process, the way our legislative unit works,
25 is they provide the technical assistance to align and let

1 the author's office know where our policies are. We don't
2 take formal support positions without going through Agency
3 and the Governor's office.

4 COMMITTEE MEMBER MIGDEN: No, I know. Then I'm
5 looking --

6 CHAIRPERSON BROWN: But we do work with them.

7 COMMITTEE MEMBER MIGDEN: -- for some fine line,
8 because the Governor's office won't till the end.

9 CHAIRPERSON BROWN: Right. We do work with them
10 and we did, especially --

11 COMMITTEE MEMBER MIGDEN: I guess I'd ask then,
12 Madam Chair, in the specifics of this, in the specifics of
13 taking, you know, a little latitude -- and I know we are
14 hamstrung officially -- but that does, in and of itself,
15 prevent this collegial, kind of formal, kind of
16 professional consultation without the real line of
17 authority that may be helpful.

18 For instance, if it is a case that this Board
19 believes that other parties should be involved in this
20 what happens with paint, you know, for end-user
21 responsibility or not, then that could be shared, and Mr.
22 Huffman can say, "Gee, I don't think so" or nod or "here's
23 why" or "I appreciate the benefit of that." And/or it --
24 you know, when you say penalty phase or other things, we
25 should think about if we believe those things are

1 components that we find that work. And then, you know --
2 because, Howard, I disagree. By the by, they may put them
3 in or not. Often a bill gets to the Governor's desk and
4 no one's attended to things like that.

5 So I don't necessarily assume. I think that
6 anything that broaches on work we do and we have a vested
7 interest, and we can enter respectfully early and shape
8 it, so that it meets the terms, and rather than confounds
9 us --

10 CHAIRPERSON BROWN: Well, and that's -- I
11 apologize if I didn't make it clear. That's
12 actually -- that is what we do. And that's what we have
13 directed our Legislative Office. And we quite often do
14 engage with the legislators on their bills early on to try
15 and affect the change that we can be supportive of in
16 order to get the bill through the process.

17 COMMITTEE MEMBER MIGDEN: Well, maybe we could
18 get little reports on that, because that interests me. I
19 think the respect from the Board and how the community or
20 the legislators receive it. And it isn't an
21 after-the-fact.

22 And, lastly, Madam Chair, when individuals from
23 this agency sit at a dais and to hear in and say they're
24 there for technical information, they often are not given
25 an opportunity for voice. They may be, but that's the

1 discretion of the Chair or any member to call on them. So
2 it's not that easy to generate that endpoint.

3 CHAIRPERSON BROWN: I'm going to have Elizabeth
4 explain. And then we've actually engaged your office to
5 provide those -- the kind of updates that Carole's asked
6 for on meetings, communication with any members of the
7 Legislature, updates and things like that. So that is in
8 the process.

9 Go ahead.

10 LEGISLATIVE DIRECTOR HUBER: Absolutely. And as
11 we know, we've had two weekly reports come out. And it is
12 a work-in-process and a learning experience for all of us.

13 With regards specific to AB 1343, we have been in
14 contact with Assemblyman Huffman's office. The staffer is
15 actually his Chief of Staff, Deborah Gravert. And we are
16 working on setting up a meeting. She's also indicated
17 that, if you look at the bill, it's in intent form with
18 obviously some specifics in it, but that there are going
19 to be forthcoming amendments and such. And as she
20 finalizes that, then she would like to definitely sit down
21 with the Integrated Waste Management Board staff and Board
22 members, et cetera.

23 So we're in the -- communicating in the process.
24 But there hasn't been an official meeting yet.

25 CHAIRPERSON BROWN: Thank, you Elizabeth.

1 Sheila.

2 COMMITTEE MEMBER KUEHL: Well, I think there's an
3 overlay here though that we were interested in as a board,
4 which is that this could -- the continuing to cherry-pick
5 individual areas for producer responsibility could be in
6 conflict with Chesbro's overall bill, which is a bill that
7 the Board is enthusiastic about.

8 And although generally that would be a
9 conversation between, you know, Wes and Mr. Huffman, it's
10 still something that I think we generally continue to
11 prefer. And so that puts us a little bit in an awkward
12 position, I think, about 1343, because we're not opposed
13 to producer responsibility in the arena of paint. But I
14 think we'd prefer that if Chesbro's bill passes, as I
15 understand it, the Board kind of gets to select the areas
16 that we want to concentrate on in some kind of
17 chronological order. It may be paint. But there may be
18 something, you know, we think is more important, which is
19 the reason why we're trying to get them not to cherry-pick
20 the various industries.

21 So I think what Carole has said is very valuable
22 as well, which is we have to kind of keep in touch. But I
23 think the direction from the Board really is not to oppose
24 these individual bills. Obviously, you don't know whether
25 Chesbro's bill is going to make it or get signed. And it

1 could be that Jared's bill does. But I think we also need
2 to continue to communicate that we prefer the overall
3 approach.

4 LEGISLATIVE DIRECTOR HUBER: And that's where
5 it's been very helpful with the Board's direction on
6 strategic directives, because it's one tool that we use to
7 direct them to our website and ask them to take a look at
8 where we are with Extended Producer Responsibility and our
9 EPR framework. We also share with them where it falls in
10 the AB 32 scoping plan.

11 So we do communicate this information and
12 actually will copy and paste and send it to them. But we
13 don't get into more than technical assistance until we
14 have a position, and, as Deborah had said, until they work
15 on how the bill is going to be expanded.

16 So there is the communication based on the
17 direction we have from the Board.

18 CHAIRPERSON BROWN: Thank you.

19 Any other questions for staff on this?

20 Okay. Thank you very much for the update. And
21 we'll keep an eye on 1343 as it moves.

22 Okay. The next one, Howard, is you as well.

23 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Yes,
24 ma'am.

25 CHAIRPERSON BROWN: Item 5, RMDZ.

1 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: While
2 Mitch is coming up here, Item 5, as you said, Madam Chair,
3 asking the Board to initiate a new designation cycle for
4 the Recycling Market Development Zone program.

5 As you know, the RMDZs, the Recycling Market
6 Development Zones are really a partnership between the
7 Board and local jurisdictions. And they're oriented
8 towards expanding and increasing the manufacturing
9 infrastructure that we have within California.

10 The Board and the zones in combination offer
11 businesses a variety of different services, including
12 financial assistance, through our Low Interest Loan
13 Program and linkages with other financial institutions;
14 looking at real estate for siting purposes; helping
15 businesses through, to the extent we can, some of the
16 permitting processes, whether it's local or state, without
17 certainly getting in the way of any of those decision
18 makers. So it's a very partnership-oriented program.

19 This is the first time the Board has considered a
20 new cycle of zone designations since 1995. We've had some
21 renewals and we've had a few people drop out. But we have
22 not actually opened up a formal new cycle for over ten
23 years.

24 Last year, the Board staff and the Board engaged
25 in a program evaluation with the zone administrators,

1 local government recycling coordinators, and businesses to
2 look at the zone program. And we brought an item to you
3 in September of 2008.

4 There were a number of things in that item. But
5 among them were the -- received direction from the Board
6 to actually open up a new designation cycle. And that's
7 why we're bringing this item to you today.

8 I think in these times of economic uncertainty
9 and the problems that you've heard about over the last few
10 months with markets for export material -- exported
11 materials, the more we can do to develop domestic
12 capacity, the better off we're going to be in California
13 as a whole.

14 So I think this cycle is timely. Mitch is going
15 to walk you through what the cycle would entail and kind
16 of our timeline on it.

17 And then the last thing I want to mention before
18 turning it over to Mitch is that right now the zone
19 program is scheduled to sunset in 2011. So there is
20 legislation that's been introduced, SB 390, which would
21 extend that date -- perhaps eliminate it or extend it. So
22 we're well aware of that issue and I've had discussions
23 with the author's office on that.

24 So let me turn it over to Mitch Delmage, one of
25 our Branch Managers in the Local Assistance and Market

1 Development Division.

2 CHAIRPERSON BROWN: Before Mitch starts, Sheila
3 has a question.

4 COMMITTEE MEMBER KUEHL: Well, could you make
5 sure that you address the difference between Option 1 and
6 Option 2? Because as I understand it, it's really just --
7 not just -- it's really an issue about staffing and the
8 capability here to really do what we are required and
9 should do for each zone.

10 My understanding is that the staff has
11 recommended continuing to limit that number, rather than
12 "Ya'll come" kind of approach, solely because of the
13 staffing issue. And I wonder if you could address that.
14 Because, you know, otherwise we tend to say, "Gee, you
15 know, the more the merrier." But I think it's incumbent
16 on us to understand, honestly speaking, what our
17 capacities are.

18 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: I can
19 do that now. Or would you like to wait until after the
20 presentation?

21 CHAIRPERSON BROWN: You can do it now.

22 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Okay.

23 CHAIRPERSON BROWN: So that as Mitch goes
24 through, we can understand the --

25 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Sure.

1 And I do want to correct one thing I said. The
2 2011 sunset date is for the loan program aspects --

3 CHAIRPERSON BROWN: Right.

4 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: -- not
5 the entire zone. Sorry.

6 Member Kuehl, you're absolutely right. This is a
7 recommendation based on staffing issues.

8 We went through a reorganization, as you know,
9 about a year and a half ago. We've had quite a learning
10 curve, both for new staff and even for existing staff, and
11 have had a number of additional responsibilities placed on
12 the Local Assistance Market and Development Division,
13 headed by Cara to my left.

14 And it's our assessment - it's not a
15 super-quantitative assessment - but that we can handle
16 providing services to additional zones, but not an
17 unlimited number. And the 40 number is a little bit
18 arbitrary. That's something that the Board chose many
19 years ago based on the old Enterprise Zone model. But we
20 feel that we can provide services to, you know, another
21 six or seven zones and be able to absorb that. Beyond
22 that, it becomes problematic.

23 CHAIRPERSON BROWN: So Option 1 is unlimited? Or
24 it just fills the seven slots that we have, and then
25 Option 2 is the unlimited?

1 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: That's
2 correct.

3 CHAIRPERSON BROWN: Okay. Thank you.
4 You're up, Mitch.

5 LOCAL ASSISTANCE AND MARKET DEVELOPMENT BRANCH
6 MANAGER DELMAGE: Good morning, Madam Chair and Board
7 members. For the record, my name's Mitch Delmage. I am a
8 manager in the Local Assistance and Market Development
9 Division.

10 The Recycling Market Development Zone Program was
11 established in 1990 to encourage and support the
12 development of a strong recycled commodity business and
13 manufacturing infrastructure in California.

14 Originally, 40 zones were set up, but currently
15 there are only 33. Staff is requesting that the Board
16 expand the program by opening a new cycle to designate
17 more zones.

18 There are several reasons why the Board may want
19 to consider adding zones this year:

20 First, many jurisdictions have already indicated
21 a strong interest in the program.

22 And, second, more zones will provide the Board
23 staff with a greater opportunity to work closely with
24 local government and economic development agencies to
25 expand existing infrastructure and attract new businesses.

1 And, finally, third, more zones will help sustain
2 and increase local recycled commodity markets in the zone
3 as well as surrounding areas.

4 Board staff is developing a streamlined
5 application process in the zone -- or for designating the
6 new zones. The application will be available on line and
7 will contain a standard format, making it easier for both
8 applicants to complete and Board staff to review.

9 On another note, as part of the designation
10 process, the Board must approve scoring criteria for
11 determining which applicants would best serve statewide
12 needs for diverting waste in building market
13 infrastructure.

14 The main objectives are general in nature and
15 have been established by regulations. These statewide
16 objectives are: Extending landfill capacity by reducing
17 disposal, encouraging new technologies to address priority
18 waste materials, distributing zones throughout the state
19 to encourage regional recycling, and stimulating new
20 regional markets.

21 The Board can also add criteria. And staff
22 recommends that the Board consider the targeted regional
23 criteria listed in Attachment 1 to help select the best
24 applicants for the program.

25 Rather than go through all these criteria at this

1 time, I can explain any, in further detail, if you have
2 questions.

3 Staff will be using existing Email lists to
4 announce the new designation cycle. We'll be sending out
5 notification to local jurisdictions, economic development
6 agencies, and other interested parties. Additionally,
7 we'll be working with OPA to help publicize this
8 designation cycle.

9 For those listening today, a workshop will be
10 held in the CalEPA building on April 28th to instruct
11 potential applicants about the process and the
12 application. This will be a go-to meeting, so that all
13 interested parties can participate.

14 The designation cycle will begin July 1st, 2009,
15 and applications will be due October 28th. This timetable
16 is based again on regulations. And while this regulatory
17 timetable is constraining, staff has consulted with local
18 planners and zone administrators to assure that enough
19 time was built into the process to meet CEQA requirements
20 if applicants start the process early.

21 Staff will be disseminating the application in
22 April and will be encouraging jurisdictions that intend to
23 apply to begin their application and CEQA process before
24 July 1st.

25 Once the applications have been received and

1 scored, we'll prepare an agenda item for the Board to
2 consider in February 2010.

3 This completes my presentation.

4 Staff recommends that the Committee approve
5 Option 1 and adopt Resolution 2009-33.

6 And I'm open for questions.

7 CHAIRPERSON BROWN: Thank you, Mitch.

8 Sheila.

9 COMMITTEE MEMBER KUEHL: Mitch, did you say that
10 the criteria were different than criteria we had been
11 using in the past, or exactly the same - in Attachment 1?

12 LOCAL ASSISTANCE AND MARKET DEVELOPMENT BRANCH

13 MANAGER DELMAGE: From 1996, the criteria that we've
14 included in this one are different. There's some
15 similarities but they're different.

16 CHAIRPERSON BROWN: Do you want to sort of
17 highlight the differences or generally.

18 LOCAL ASSISTANCE AND MARKET DEVELOPMENT BRANCH

19 MANAGER DELMAGE: Yeah, I'm not sure I can -- I don't have
20 the old agenda item in front of me. I do have it at my
21 desk.

22 CHAIRPERSON BROWN: Well, I think clarification
23 is you referenced the Board having a preference for what
24 was given. But we weren't given the old one. So we can't
25 choose one from the other without having both or knowing

1 what the differences are for the targeted scoring criteria
2 as opposed to what was used before. I mean I'm generally
3 okay with what I see. But --

4 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: We can
5 go back and search for the old application - we have it -
6 and provide that to you before the Board meeting.

7 COMMITTEE MEMBER KUEHL: So did the Board adopt
8 this criteria?

9 CHAIRPERSON BROWN: This current criteria that we
10 have in front of us?

11 COMMITTEE MEMBER KUEHL: Or were changes made at
12 the staff level from '95 or '96?

13 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: If you
14 look at -- and I don't know that we can answer that
15 directly now. We might have to go research that.

16 But if you look at Attachment 1, the statewide
17 objectives are what's set in regulation. The Board has
18 the discretion to add additional objectives. So we've
19 suggested a number here that would provide for making sure
20 that these applicants -- there's some infrastructure in
21 place that they can build on that they have a commitment
22 of -- a local commitment of resources to support the
23 program, that they are working with local businesses, and
24 also that they are not just single city jurisdictions,
25 there's a number of criteria like that.

1 So these are lessons that we've learned, you
2 know, over the last ten, 12 years about the zones that are
3 successful versus the ones that are less successful. And
4 we've tried to incorporate those into these criteria. But
5 I'd have to go back and do a side-by-side comparison to
6 let you know exactly how it's changed.

7 COMMITTEE MEMBER KUEHL: Well, I'd be interested,
8 because if the Board hasn't reviewed the criteria, you
9 know, subsequent to just looking at the regulations --
10 which you indicated was just the first 20 points, right?

11 LOCAL ASSISTANCE & MARKET DEVELOPMENT DIVISION
12 CHIEF MORGAN: Um-hmm.

13 COMMITTEE MEMBER KUEHL: I think I'd be
14 interested, because obviously as the criteria goes, so go
15 the grants. And you can -- I don't know that we -- we
16 haven't heard from anybody. But if we adopt the
17 resolution, are we adopting the criteria? Because I
18 think not. Are we?

19 CHAIRPERSON BROWN: Yes, we are. But this is the
20 scoring criteria for evaluating applicants to be included
21 in the zone designation. So this scoring criteria doesn't
22 go to individual projects. This goes to a zone. And then
23 if they score 70 or above, the top seven scores, from this
24 criteria. I think though we do need to see -- not the
25 comparison of the two.

1 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: We'd
2 be happy -- we have that, you know, back upstairs. We'd
3 be happy to put it side by side.

4 COMMITTEE MEMBER KUEHL: You know, I mean, I
5 don't need to nitpick. But, for instance, when you say
6 you get five points because a large amount of Board high
7 priority materials are being disposed of in the region, I
8 don't know in terms of adding the next seven what a high
9 amount would be. I'm assuming that we already designated
10 zones where the high amounts exist. And so does high
11 amount mean, you know, in Horse's Breath, California, more
12 than 50 percent is C&D or -- do you know what I mean? I
13 want to make certain that the people that we might want to
14 be able to establish a zone regionally or somewhere in the
15 state, where we don't have one, aren't tripped up by some
16 of this other stuff.

17 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: In my
18 view, this is where the Board should weigh in. So we are
19 very happy to go back and do a little bit more
20 side-by-side comparison and come back to you next week.

21 Some of these -- each applicant is not going to
22 be able to meet all of these. There are some criteria
23 that are designed to pull in some rural areas, others
24 designed to pull in some probably very, very active
25 jurisdictions. So they won't necessarily get a hundred

1 points. But I think this is important -- this is where
2 the Board influences the policy regarding selection of
3 applicants. And so we will put a little bit of a
4 comparison together and provide that to you in the next
5 few days so that you can discuss that.

6 CHAIRPERSON BROWN: And include a little bit of
7 the rationale. I'm not looking for a lengthy discussion,
8 but the rationale behind why you added a -- I mean, is
9 this to pull in the rurals? Is this designed to expand,
10 you know, our map program?

11 COMMITTEE MEMBER MULÉ: That would be helpful.

12 COMMITTEE MEMBER KUEHL: You know, because I
13 support opening it up for seven more zones. But I wasn't
14 aware that in supporting this resolution today, I'm also
15 adopting criteria that I haven't reviewed really.

16 CHAIRPERSON BROWN: Okay. Rosalie.

17 COMMITTEE MEMBER MULÉ: Thank you.

18 I have a question regarding -- I don't know if it
19 would be the criteria or the market development objectives
20 that are in the regs. And, Howard, as you mentioned
21 earlier, you know, we're all painfully aware of the
22 downturn in market conditions. And so one of the things
23 that I was trying to, you know, piece together in my mind,
24 as we will be hearing in our next item, we have a proposed
25 new strategic directive for business retention. And so I

1 don't -- I didn't read anywhere in either the objectives
2 or the criteria that we would look at maintaining existing
3 markets rather than expanding or developing new markets.
4 And to me a part of what we're trying to do is retain the
5 existing infrastructure and market development efforts
6 that are out there. And so we don't want to jeopardize
7 that, because -- I mean, that was one of the things that
8 we heard in our markets panel back in February, is that,
9 you know, we have to take care of that existing
10 infrastructure, because it is so vulnerable right now.

11 And so I was just wondering if we can incorporate
12 that somehow into either the criteria or the objectives or
13 wherever it's appropriate to put it.

14 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Well,
15 I think that's a great point. You know, there's existing
16 infrastructure both within existing zones and outside of
17 the zones. Clearly, part of the functions of the zones is
18 to retain existing manufacturing businesses, bring in new
19 ones where they can. And that's the -- kind of the
20 nonfinancial aspect sometimes when we're working with them
21 on how do you get through a local permitting process or
22 deal with an air issue or what have you. So I think we
23 can build that in. It's certainly part and parcel of the
24 everyday activities anyway.

25 Cara's pointing out to me that in Section Two on

1 line three it says, "Regions represented that have the
2 high potential to either be used by existing manufacturing
3 businesses or where new businesses can be established."

4 So we can --

5 COMMITTEE MEMBER MULÉ: What page are you
6 referring to?

7 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: On
8 Section Two in Attachment One, line -- under "Targeted and
9 Regional criteria."

10 COMMITTEE MEMBER MULÉ: Right.

11 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Line
12 three.

13 That may not be specific enough, but we tried to
14 capture that general concept.

15 COMMITTEE MEMBER MULÉ: Yeah, okay. I just want
16 to make sure -- I just want to be sure that it's explicit.
17 Because, again, given our current, you know, economic
18 conditions, I just want to make sure that everyone
19 understands that this -- it also includes the maintenance
20 of the existing infrastructure in markets.

21 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Right.
22 And I think that in general -- pardon me?

23 CHAIRPERSON BROWN: I don't think that line
24 specifically speaks to this issue that Rosalie is raising.
25 I think it's important that they have the infrastructure

1 in place to launch the business and recover the materials
2 necessary to launch that business. And that's how I read
3 that part of it, rather than what Rosalie's looking for,
4 which is maintenance.

5 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: We can
6 come up with some proposed language to do this. So we
7 have a -- we'll do a comparison for you of the 1995-6
8 criteria with this proposed criteria. We can propose some
9 specific language to address that.

10 And I would just say that, in general -- of
11 course, this item was written before even the Board
12 retreat. But we view this as one of our tools to help
13 businesses. It's not everything we do to help businesses.
14 Obviously, under the proposed strategic directive, we're
15 going to be looking at other ways we can enhance our
16 abilities to assist businesses in California. So this, to
17 me, fits right in with that. We didn't explicitly lay
18 that out, but it certainly does.

19 CHAIRPERSON BROWN: Great.

20 COMMITTEE MEMBER MULÉ: Thanks, Howard.

21 CHAIRPERSON BROWN: Thanks, Howard.

22 Any other questions or direction?

23 We're going to put this over to the full Board,
24 with materials coming from staff for consideration to the
25 Board members, as well as the general public, for review

1 by end of this week. It will be put up on BAWDS by Friday
2 so that the general public has sufficient time to review
3 it before Tuesday, and then circulate it to members.

4 So we'll take this to the full Board on Tuesday.

5 Okay. Thank you, Mitch, Howard, Cara --

6 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: And on
7 Tuesday, we will just do a very short presentation that
8 provides you the new material.

9 CHAIRPERSON BROWN: Yeah. Maybe what we do is
10 rather than Mitch having to redo the presentation, just do
11 the side by side. And let's do it a dialogue of the side
12 by side and what the comparison is, and focus really on
13 the criteria -- the scoring criteria. And then we can
14 entertain any questions from the audience on the entire
15 agenda item, if there's questions on the entire agenda
16 item, or from the Board.

17 COMMITTEE MEMBER KUEHL: Madam Chair, should we
18 have more discussion in Committee about whether we
19 prefer -- or whether we agree that simply opening it up,
20 but only for seven more zones as opposed to unlimited?
21 Make sense? Because I think given the presentation on
22 staff constraints, I think it's important for us to be
23 sensitive to that. Otherwise, you know, we're kind of
24 asking the impossible.

25 So I wanted to say, I think it's a public

1 discussion and I support the Option One.

2 COMMITTEE MEMBER MULÉ: As do I.

3 CHAIRPERSON BROWN: I do as well.

4 Any other members?

5 That's great.

6 CHAIRPERSON BROWN: And maybe along with that, I
7 know that when this item came up before, and we were
8 reviewing, we had two or three jurisdictions that were
9 possibly interested, which is what began the dialog of
10 opening up a new designation cycle. Is there indication
11 that you have significantly more or -- I mean, I think I
12 would prefer seven and keep the staff constraints, provide
13 valuable assistance rather than spreading ourselves too
14 thin. But --

15 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: And,
16 you know, as I said before, we are trying to encourage
17 multi-jurisdiction zones, because that achieves economies
18 of scale and just much more a regional coordination. So
19 we're looking for that.

20 You know, if we get more than seven good
21 applications, then, you know, we can work with the
22 Executive Director and consider whether we want to bring
23 back a new cycle in a couple years rather than waiting,
24 what is it --

25 CHAIRPERSON BROWN: Right.

1 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: -- 14

2 years or...

3 But that's all contingent on, you know,
4 legislation being passed to extend the loan program and
5 other issues as well.

6 CHAIRPERSON BROWN: Okay. Great.

7 Thank you.

8 Okay. Next item on the agenda is Item 6.

9 And with consent and general consensus of the
10 Board, what I've asked Rubia to do is go through -- we
11 went through extensively the SDs, at one point, and we're
12 fine with some. There were some sticking points, so
13 Rubia's going to go through most all of them that we had
14 some issues with to review. And then we'll go back for
15 questions SD by SD, if anybody has any questions.

16 If there's anybody here in the audience who would
17 like to speak, please send your forms now, so I can manage
18 it as we go through each one rather than at the end.

19 So I'll turn it over to Rubia.

20 CHIEF DEPUTY DIRECTOR PACKARD: Thank you, Madam.

21 Good morning, Board members. Rubia Packard with the
22 Executive Office.

23 Just to let everybody know that's in the room,
24 what we've provided to you, as executive staff, was our
25 suggestions for updates that included some due dates, some

1 completed actions, and then some changes for clarity. As
2 a result of direction from you at your retreat, we also
3 went back through and tried to add some more
4 action-oriented language and get rid of all the acronyms,
5 so that everybody that reads it could actually understand
6 it. And then we got some additional input from the Board
7 on some areas that were a little bit unclear.

8 So those are the areas that I'm going to go
9 through with you first. And then if there's any other
10 areas that you have a problem with, we can go through
11 those next.

12 Once the Board members adopt this, staff will
13 come back to you with -- we'll update our action plans and
14 prepare new ones, if necessary. And we'll come back with
15 those to you to report to you on the action plan. And
16 then we'll have progress reports on our activities in May
17 and September of this year on all of the activities
18 relative to the strategic directives that you adopt this
19 month.

20 So the first area that the Board members had some
21 questions about and wanted us to look at the language
22 again was SD 3 -- 3.1, which is "Provide rigorous
23 oversight and review of all local jurisdiction programs so
24 that diversion programs are fully implemented and
25 jurisdictions are meeting their per capita disposal

1 targets." We had included some language in there about 50
2 percent diversion. And so we were directed to simplify
3 it, and this is what we came up with.

4 CHAIRPERSON BROWN: All right.

5 CHIEF DEPUTY DIRECTOR PACKARD: Okay. The next
6 area was SD 4.5. And this was just a clarification of the
7 language. It wasn't -- there wasn't any change. It was
8 just taking out a few words and making it a little simpler
9 and easier to understand.

10 This is an area though that there is a comment
11 from a constituent that I believe he wants to speak to
12 this one later when we get to that.

13 CHAIRPERSON BROWN: I have it.

14 CHIEF DEPUTY DIRECTOR PACKARD: So that was 4.5.

15 The next area that the Board asked us to add some
16 language to is SD 5.5. And that was the idea of including
17 the public and other interested parties, just go ahead and
18 calling them out. Of course, there are stakeholders. But
19 just specifically calling them out in that one. So we did
20 that.

21 The next area is SD 6.5. And on this one -- I
22 think this one was just making it a little clearer. Our
23 language was a little convoluted before. So we tried to
24 simplify it and make it a little more direct.

25 SD 6.8 is a new one that has been proposed -- was

1 proposed by Gary's office. And so that's one that, if you
2 want, we can discuss that in a little more detail when we
3 get to that.

4 SD 6.8 is a new one that was proposed by Gary's
5 office.

6 The next one where we worked on the language is
7 SD 7.2. And, again, that was one that was a little
8 convoluted, and we just clarified it. Made two sentences
9 out of it and made it a little clearer, I hope.

10 The next area is SD 8.3, once again just making
11 it a little clearer.

12 CHAIRPERSON BROWN: Right.

13 CHIEF DEPUTY DIRECTOR PACKARD: The next one is
14 SD 8.8. That one also was a little convoluted. We just
15 made it a little clearer.

16 And then the only other area was SD 12 in the
17 core value statement, where Sheila pointed out some
18 problems with the language. And we hope we've made that a
19 little better.

20 So those were the areas, when we went through
21 them at the retreat, that you had questions about and gave
22 us some additional direction to work on the language.

23 CHAIRPERSON BROWN: Okay. Thank you, Rubia.

24 Okay. So for questions and comments, I'll
25 work -- I'm going to work the public in here and then --

1 as we go through with Board members.

2 On 1 and 2, do we have any questions or comments
3 on SD 1 or 2?

4 Okay. SD 3, we have a speaker.

5 John Cupps.

6 Your issue specifically you said is 3.8, but you
7 can do whatever.

8 MR. CUPPS: Correct. Madam Chair, for the
9 record, my name is -- and the members of the Committee, my
10 name is John Cupps, and I'm here on behalf of the San Luis
11 Obispo Integrated Waste Management Authority, which is an
12 AB 939 regional agency comprised of all of the
13 jurisdictions within the county. Our board is governed by
14 a board of directors comprised of elected officials from
15 each of the jurisdictions, and includes all five members
16 of the Board of Supervisors.

17 Our specific concern is with Strategic Directive
18 3.8. And 3.8 basically directs staff to seek statutory
19 changes to streamline and refocus the Used Oil Program.
20 And our principal concern or question has to do with what
21 the intent is relative to refocusing that program?

22 The existing statutory framework, we think,
23 places a great deal of emphasis and priority on the
24 financial support of local collection efforts. And we
25 would be very concerned that any refocusing of that

1 program would result in the diminishment of those
2 resources.

3 The practical reality is, is that those financial
4 resources are really the lifeblood of many local
5 collection efforts. If those resources are diminished, we
6 will not be able to sustain many of those collection
7 efforts. If you don't collect the material -- if you
8 don't collect the oil, you won't be able to re-refine it.

9 Thank you.

10 CHAIRPERSON BROWN: Thank you, John.

11 I'm going to let Howard chime in. I think that a
12 lot of that was -- or Mark, whoever's appropriate,
13 whichever one of you wants to -- relative to the
14 diminishing amount of revenue block grants that are
15 available. I know that's of considerable concern to our
16 local government partners. And, Mark, do you want to --

17 EXECUTIVE DIRECTOR LEARY: I'll start and Howard
18 can supplement.

19 I hear A stakeholder, O'Cupps, loud and clear.
20 And I don't think we're interpreting the direction of the
21 Board in any way, shape, or form to diminish what he
22 speaks to as being a high priority. We've found that
23 after 15 years or so, or longer actually, of the life of
24 the Oil Recycling Act that it's time for a simplification.
25 And I think our intent, and I think it's as a result of

1 Board discussions in the past, is to streamline and make
2 that delivery of services more effective to local
3 jurisdictions, without any diminishment of the resource.

4 So that's -- you know, we're not making --
5 certainly not making that explicit in the strategic
6 directive. But I think staff and the Board, working
7 collectively, has always spoken to that intent and always
8 intends to, and enhance that intent further down the road.
9 What we're trying to deal with is the administrative
10 burden that the current act places on us and on the
11 grantees and the local services that we think should be
12 relieved, could be relieved, and it's time for
13 improvement.

14 CHAIRPERSON BROWN: Okay. Sheila.

15 COMMITTEE MEMBER KUEHL: Well, I think -- I don't
16 think it's a good idea for our strategic directives to
17 raise anxiety levels by their sort of vagueness. And I
18 think simply dropping in a word like "refocus" for, you
19 know, the Oil Recycling Act could indeed cause a lot of
20 people a little heartburn wondering what the heck
21 "refocus" means.

22 So I'm not certain that it's the best idea to
23 have that word in there, either with no explanation or
24 have it in there at all, if there's another more, you
25 know, less anxiety-producing, more specific word that we

1 might use.

2 COMMITTEE MEMBER MIGDEN: Refine.

3 COMMITTEE MEMBER KUEHL: Well, it's sort of the
4 same thing though.

5 CHAIRPERSON BROWN: Well, what about -- I'm just
6 going to take them right out of Mark's mouth. "Seek
7 statutory authority to streamline administrative burdens
8 for better delivery of the program."

9 EXECUTIVE DIRECTOR LEARY: -- "while remaining
10 true to the intent of the original oil statute" or
11 something to that effect.

12 COMMITTEE MEMBER MIGDEN: Except that this really
13 stems from less money in the fund, right?

14 CHAIRPERSON BROWN: Partially. And --

15 COMMITTEE MEMBER MIGDEN: I mean, so there's a
16 little bit of saying, you know, we're not going to be as
17 robust. So we want to refocus or we want to, it seems to
18 me, pay attention to the key matters or, you know, going
19 to run a little leaner in whatever euphemistic way that
20 gets said. In fairness --

21 COMMITTEE MEMBER KUEHL: Well, maybe we could ask
22 the witness --

23 COMMITTEE MEMBER MIGDEN: Well, I don't mind that
24 either. But the point I wanted to -- because I don't know
25 if the gentleman's a linguist. The point I was trying to

1 get to, the reason we're adding the language in --

2 COMMITTEE MEMBER LAIRD: He did speak.

3 COMMITTEE MEMBER MIGDEN: -- is to indicate

4 there's a slowdown. And that's what put it in. So then

5 let's just get back to what we mean. It's more of a

6 diminishment more than -- a misnomer would be an extra

7 refinement if, in fact, we're going to do less.

8 CHAIRPERSON BROWN: I think your -- I think it's

9 partially true. I think maybe what I heard from Mark is

10 that maybe some of the administrative burdens could be

11 streamlined and save us money, which would better provide

12 for the grants to local government.

13 EXECUTIVE DIRECTOR LEARY: Absolutely.

14 CHAIRPERSON BROWN: Because I think if we

15 minimize the administrative burdens on ourselves, our

16 overhead is going to be less and we're going to be able to

17 provide the block grants much more easily and efficiently

18 to local governments. So we kind of want to indicate both

19 what Carole's mentioning and possibly --

20 EXECUTIVE DIRECTOR LEARY: You might want to take

21 further --

22 CHAIRPERSON BROWN: If we take the word --

23 EXECUTIVE DIRECTOR LEARY: -- testimony from John

24 or --

25 CHAIRPERSON BROWN: If we take the word "refocus"

1 out and add something else in there, would that, do you
2 think --

3 MR. CUPPS: Yes, that would certainly help.

4 Actually, I think if you added a phrase to the
5 effect of "maximize available resources for support of
6 local collection efforts" would certainly get to the
7 intent that I have in mind.

8 EXECUTIVE DIRECTOR LEARY: Why don't -- I hear
9 that loud and clear. And I would suggest that maybe we
10 take some -- make some attempts at it between now and next
11 week and offer some suggestions back to the Board. And if
12 we don't get it right by next week, we can certainly come
13 back in the following month.

14 CHAIRPERSON BROWN: Okay.

15 COMMITTEE MEMBER KUEHL: And also remember the
16 operating phrase is to seek statutory authority. So that
17 may be different from the intent of the Board. If
18 we're -- just exactly what are we asking to have changed
19 in the statute is really the issue for 3.8. So not to
20 raise anxieties by saying we want to change the law. You
21 know, we can state the intent of the Board here. That I
22 think is -- that's good here. But if we're seeking
23 statutory authority, let's just limit it to what we're
24 asking the statute to do.

25 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Madam

1 Chair?

2 CHAIRPERSON BROWN: John, do you have a comment?

3 COMMITTEE MEMBER LAIRD: All I was going to say
4 is some of the most painful moments in my 35-year public
5 career have been doing editing in public by committee.

6 (Laughter.)

7 COMMITTEE MEMBER LAIRD: And this is -- and I
8 just hope that you take the direction and do it.

9 And the one thing I would add, having just said
10 that I wouldn't do this, is when you used the phrase
11 "streamline administrative burdens", it sounds like we
12 would then have very easy-to-use burdens. And so, you
13 know, think of something else.

14 (Laughter.)

15 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Madam
16 Chair?

17 COMMITTEE MEMBER LAIRD: Clear direction.

18 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: I just
19 wanted to point out to the Board that we did have a pretty
20 extensive discussion with stakeholders last year in a
21 variety of information exchanges and roundtables, and we
22 did report back to the Board several months ago. And, in
23 general, there was a lot of support for incentives to
24 increase collection, incentives for increasing
25 re-refining. And the Board did express its support and

1 for those general directions. So we have -- staff has
2 taken that as sort of a working guideline. And perhaps we
3 can build some of that in as well.

4 CHAIRPERSON BROWN: Okay. Thank you.

5 Okay. Anything else on 3?

6 SD 4?

7 We have one speaker, Glenn Acosta.

8 And you're 4.5, I think.

9 MR. ACOSTA: Yes. Good morning, Madam Chair and
10 Committee members. This is my first time addressing you
11 this year. And so I thought I would first start off
12 saying congratulations on your appointments and
13 reappointments. And I look forward to working with all of
14 you in the future.

15 Turning to the agenda item itself. We were one
16 of the signatories to the SWIG letter that you received
17 yesterday. And the reason we felt it was important to
18 express our concerns is that in that strategic directive,
19 there is a deadline for completion of December 2010. And
20 given that the strategic directive essentially is a policy
21 direction to staff, staff may be hesitant or reluctant to
22 grant a time extension even though it's justified and even
23 though it's allowed in the gas regulations that were just
24 adopted a few months ago.

25 And so I think that was at the heart of our

1 concern, particularly for agencies like us that are public
2 agencies that have such a long lengthy process with regard
3 to bidding and contracting because of State law.

4 Additionally, we have situations where the
5 landfill's under the jurisdiction of the National Park
6 Service, so you can't just start drilling holes in the
7 landfill. You have to secure permission from the National
8 Park Service, which may trigger an environmental review on
9 their part because they're biologically sensitive areas.

10 And then also we don't have approved gas plans as
11 of yet. We submitted the gas plans on time. They
12 received LEA approval long ago. And we're working with
13 the Waste Board staff on securing their approval. And,
14 you know, we're working collaboratively with them.
15 They've requested more information. But until we get out
16 of that cycle of requests for information, we don't have
17 an approved plan and therefore we can't proceed forward
18 with even putting together bidding documents, because we
19 don't know what the scope of work is.

20 So I think that's kind of at the heart of the
21 SWIG letter that we signed on to.

22 And also I think there needs to be an additional
23 consideration. Currently, on the financial situation that
24 the landfills are facing, particularly ours, in that when
25 the gas regulations were adopted a couple years ago, we

1 did not foresee the financial meltdown that's occurring,
2 which is impacting our landfills, in that tonnage is way
3 down, the revenue is also way down accordingly. And so
4 we're having even a difficult time meeting expenses.
5 We've cut staff at the landfills. We've delayed projects.
6 And this regulation really is a significant capital
7 expenditure.

8 And so we want to come forward with a phased
9 approach over time and so that we can comply and install
10 all the new probes that are deemed necessary by staff.
11 And so I think that consideration needs to be also in the
12 mix when requesting a time extension.

13 And, lastly, you know, a time extension is not an
14 open-ended extension. Staff is essentially approving a
15 schedule with an endpoint.

16 And so I think if all these things are considered
17 by the Board, we would be very appreciative.

18 Thank you.

19 CHAIRPERSON BROWN: Thank you, Glenn, for being
20 here and for providing the letter.

21 And we hear all of your concerns. They were
22 discussed quite extensively when we went through the new
23 reg package, and a lot of them were under consideration
24 then.

25 Carole has a comment.

1 COMMITTEE MEMBER MIGDEN: Madam Chair, I note
2 that there's a request for an amendment, something about
3 until the -- you know, some of these granted a time
4 exception, they don't have to meet a timeline. But I
5 would put, you know, something like "unless otherwise
6 specified."

7 CHAIRPERSON BROWN: Well, the one thing I didn't
8 mention before is it is allowable already in regulation.
9 And when we went through the original regulatory package
10 last year with the stakeholders, there is a process for
11 them that is allowed in our regulation. And --

12 COMMITTEE MEMBER MIGDEN: Well, maybe it could
13 cite that then?

14 CHAIRPERSON BROWN: Well, I think we can. But I
15 just want to remind everybody that the strategic
16 directives are not binding on the general public. It's a
17 guidance for staff. And what we've generally tried to do
18 is keep our strategic directives true to regulation and
19 statute.

20 You know, to call ourselves or our staff to
21 anything less than what's required by law is allowing for
22 it. And I think that there is a process that was pretty
23 well hammered out with our stakeholders to allow for their
24 time extension. We understand the public process,
25 especially from the SWIG membership and --

1 COMMITTEE MEMBER MIGDEN: I guess I'm not
2 understanding. I mean, I'm just reading something that's
3 a letter that just states that everything is due by a date
4 except for anybody that got some kind of extension.

5 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

6 RAUH: If I might add some clarity.

7 CHAIRPERSON BROWN: Go ahead, Ted.

8 COMMITTEE MEMBER MIGDEN: Yeah.

9 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

10 RAUH: This is Ted Rauh with the Waste Compliance and
11 Mitigation Program.

12 I think the way this strategic directive is
13 written now incorporates the provisions that Chair Brown
14 has been talking about, because as staff would read this,
15 to have a time extension you must apply and have it
16 approved before this effective date. So it's all
17 incorporated. Whether you apply for a time extension or
18 meet all of the requirements of the regulation, it would
19 all be done before December. And that's the way the staff
20 would interpret this. If a local -- if a
21 publicly-owned --

22 COMMITTEE MEMBER MIGDEN: I guess, what we're
23 wanting to know is how you interpret it and what is
24 understandable to anybody to pick up a paper and try to
25 understand.

1 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

2 RAUH: Well, the regulations are very clear. The
3 Statement of Reasons incorporates examples of those
4 things.

5 COMMITTEE MEMBER MIGDEN: All right. Member
6 Kuehl's advising I drop it. I always yield to her
7 superior --

8 (Laughter.)

9 CHAIRPERSON BROWN: Well, I think --

10 COMMITTEE MEMBER MIGDEN: Okay. So no issue
11 was --

12 CHAIRPERSON BROWN: I think that to add the
13 language, Glenn, we would have to add half of our
14 regulatory process and the process for granting and
15 applying for a time extension, which I don't think is
16 really necessary. It's allowed for. I appreciate your
17 raising the issues you did. But I think for this to be a
18 directive to our staff, to ensure that everybody complies
19 with the 2010 deadline is sufficient.

20 COMMITTEE MEMBER MULÉ: Madam chair?

21 Maybe -- or could we possibly just add "comply by
22 December 10th as provided in regulations"?

23 COMMITTEE MEMBER KUEHL: But it says oversee the
24 implementation of regulations. And I think --

25 COMMITTEE MEMBER MULÉ: Oh, there it is, right.

1 COMMITTEE MEMBER KUEHL: I do think that it's
2 pretty clear that we --

3 COMMITTEE MEMBER MULÉ: It's in there.

4 COMMITTEE MEMBER KUEHL: -- that the regs
5 encompass the ability, you know, to do this right. And I
6 think legislative history now, as just stated, indicates
7 that the staff thinks this means to comply by December
8 2010 would also mean submitting a request appropriate to
9 the regulations of add an extension.

10 CHAIRPERSON BROWN: Okay.

11 COMMITTEE MEMBER MULÉ: That's fine, yes.

12 CHAIRPERSON BROWN: Are you okay?

13 MR. ACOSTA: Yes.

14 CHAIRPERSON BROWN: Thank you.

15 SD 5. Any questions on any of the edits to SD 5?

16 SD 6.

17 Any questions on SD 6?

18 SD 7, Customer Service Local Assistance. Any
19 questions?

20 SD 8, Enforcement and Permitting. That's a hefty
21 one.

22 Okay. SD 9?

23 10, 11 or 12?

24 We have one speaker who wants to speak to Item 2,
25 SD 2.

1 Nick Lapis.

2 MR. LAPIS: Good morning, Chair Brown and Board
3 members. My name is Nick Lapis. I'm with the
4 environmental group, Californians Against Waste.

5 I apologize for going out of order. I didn't put
6 in my card until after you passed SD 2.

7 My question is regarding the change that you're
8 recommending here, specifically the addition of bioenergy
9 and biofuels into this short vision. These are
10 technologies that we support. But I just thought it was
11 interesting, given that we don't really specify any other
12 technologies, we don't specify recycling in this item, we
13 don't specify composting, which are really core to the
14 Board's mission, what the impetus was for making this
15 change and why the other technologies have not been
16 included.

17 Thank you.

18 CHAIRPERSON BROWN: It's an addition.

19 From my perspective - I can only speak on behalf
20 of myself, and I can defer to other Board members - I
21 think that when we talk about a sustainable California and
22 the core mission of this Board, it is composting,
23 recycling. And those are specifically stated in our
24 statutes. So I think that these, not being specifically
25 stated in our statute, we added, similar to the fact of

1 greenhouse gases and the reductions there as well.

2 So, it's not that we're excluding anything,
3 because I think that that is the core of what we do, is
4 source reduction, reuse, recycling, and composting are all
5 specific in our statutes.

6 So, for me, it's just the addition of other
7 technologies and biofuels, which we are, you know, looking
8 to in the future.

9 I don't know if any other Board member has any
10 additions that they want to add to Nick.

11 Okay. We have no other questions regarding the
12 revisions for staff, or that have been provided and
13 presented by Rubia.

14 Can I have a motion on the resolution to adopt?

15 COMMITTEE MEMBER MULÉ: Madam Chair, I move
16 Resolution 2009-44.

17 COMMITTEE MEMBER KUEHL: Second.

18 CHAIRPERSON BROWN: It's been moved by Member
19 Mulé, seconded by Member Kuehl.

20 Kristen, can you call the roll.

21 EXECUTIVE ASSISTANT GARNER: Kuehl?

22 COMMITTEE MEMBER KUEHL: Aye.

23 EXECUTIVE ASSISTANT GARNER: Laird?

24 COMMITTEE MEMBER LAIRD: Aye.

25 EXECUTIVE ASSISTANT GARNER: Migden?

1 COMMITTEE MEMBER MIGDEN: Aye.

2 EXECUTIVE ASSISTANT GARNER: Mulé?

3 COMMITTEE MEMBER MULÉ: Aye.

4 EXECUTIVE ASSISTANT GARNER: Brown?

5 CHAIRPERSON BROWN: Aye.

6 The resolution passes. And we will put that on
7 Consent for the Board meeting.

8 EXECUTIVE DIRECTOR LEARY: Madam Chair, may I
9 just ask one clarifying question?

10 CHAIRPERSON BROWN: Sure.

11 EXECUTIVE DIRECTOR LEARY: You did give us
12 direction to rework Subdirective 3.8.

13 CHAIRPERSON BROWN: True.

14 Thank you.

15 EXECUTIVE DIRECTOR LEARY: So we will come back
16 next week with a rework of 3.8. But everything else, per
17 your resolution, we'll assume is as is, status quo, goes
18 forward.

19 CHAIRPERSON BROWN: Can we move it forward - I
20 mean just for efficiency, because we may have a hearing or
21 something next week - that you provide the material and
22 the addition to us, we look at them, and if anybody wants
23 to discuss it or has a question regarding it, we can pull
24 it from consent.

25 EXECUTIVE DIRECTOR LEARY: Okay. Sounds good.

1 CHAIRPERSON BROWN: Would that be all right with
2 everybody, that if you have a question? Or do you want to
3 put it --

4 COMMITTEE MEMBER KUEHL: I just think practically
5 speaking, it's hard to put something on consent that
6 hasn't been written yet.

7 CHAIRPERSON BROWN: Okay.

8 COMMITTEE MEMBER KUEHL: But --

9 CHAIRPERSON BROWN: All right. Then we'll hold
10 it for full Board consideration, provide the material
11 ahead --

12 EXECUTIVE DIRECTOR LEARY: With that subdirective
13 alone.

14 CHAIRPERSON BROWN: And we don't have to go
15 through all the SDs again. We'll just do that one.

16 COMMITTEE MEMBER KUEHL: Could say proposed for
17 consent.

18 CHAIRPERSON BROWN: We can do it. It will
19 take --

20 COMMITTEE MEMBER KUEHL: And, Madam Chair, could
21 I also add, I think the staff -- I think Rubia and the
22 staff did a really, really good job listening to all this
23 little nitpicking stuff about active verbs and, you know,
24 things. And really -- I know it was kind of a pain, but
25 really, really did a good job. Thank you so much.

1 CHAIRPERSON BROWN: Had I known you were so good,
2 I would have had you coach my daughter in her English
3 section of the academic decathlon, because I wasn't that
4 good.

5 COMMITTEE MEMBER KUEHL: Well, considering the
6 high school in my district, one or the other, seems to win
7 the national championship every year -- oh, excuse me, my
8 former district.

9 (Laughter.)

10 COMMITTEE MEMBER KUEHL: I'd be happy to.

11 CHAIRPERSON BROWN: One note for my fellow Board
12 members. We did put together a workplan, which I'm just
13 putting timelines on. And I will distribute that to you
14 in the next day, within the next 24 hours.

15 Any other questions, comments?

16 This meeting is adjourned.

17 (Thereupon the California Integrated Waste
18 Management Board, Strategic Policy Development
19 Committee meeting adjourned at 11:20 a.m.)

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2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
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5 That I am a disinterested person herein; that the
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11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
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